



UNITED STATES
PATENT AND
TRADEMARK OFFICE

JAN 17 2006

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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NEW YORK, NY 10017

#16

In re Application of :
Paulus Quax et al :
Serial No.: 09/423,838 : PETITION DECISION
Filed: February 22, 2000 :
Attorney Docket No.: 101137-2 :

This is in response to the petition under 37 CFR 1.181, filed October 28, 2002, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on August 8, 2001, and remailed the action March 8, 2002, setting a one month shortened statutory period for reply. After receiving no written reply a Notice of Abandonment was mailed to applicants on October 9, 2002.

Applicants state that a telephone call was made to the examiner on March 14, 2002, in which an oral reply to the restriction requirement of the Office action was made. Applicants present telephone billing evidence and handwritten dated notes relating to the oral election. However, all business with the Office is to be conducted in writing. While oral election is permissible, such oral election in response to an Office action should also have been submitted in writing. From the evidence of record it is clear that applicant made a timely oral reply and the Notice of Abandonment was mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230.


Bruce M. Kisliuk
Director, Technology Center 1600